

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LEONARD C. JEFFERSON,

Plaintiff,

v.

WILLIAM WOLFE, et al.,

Defendants.

Civil Action No. 04-44 Erie

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on February 17, 2004, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 81], filed on May 15, 2006, recommended that Defendants' Motion to Dismiss Plaintiff's Third Amended Complaint [Doc. No. 67] be granted in part and denied in part. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. Objections were filed by Plaintiff on May 25, 2006 [Doc. No. 83]. After de novo review of the motion and documents in the case, together with the Report and Recommendation and Objections thereto, the following order is entered:

AND NOW, this 11th day of July, 2006;

IT IS HEREBY ORDERED that the Defendants' Motion to Dismiss Plaintiff's Third Amended Complaint [Doc. No. 67] is GRANTED in part and DENIED in part.

The Court adopts the Report and Recommendation [Doc. No. 81] of Magistrate Judge Baxter, filed on May 15, 2006 as the opinion of the Court, with the following clarification: We find, contrary to the Magistrate Judge, that the prescriptive programs at issue in this case, do advance "valid penological objectives" given their rehabilitative nature. We further find that there are issues of fact as to the remaining factors under the reasonableness test of Turner v. Safley, 482 U.S. 78, 89 (1987).

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge